



California Fair Political Practices Commission

January 26, 1990

William Sabourin
Ramona Municipal Water District
P. O. Box 849
Ramona, CA 92065

Re: Your Request for Confirmation
of Telephone Advice
Our File No. A-89-708

Dear Mr. Sabourin:

This is to confirm telephone advice given to you concerning the duties of Jack Allen, a member of the Board of Directors for the Ramona Municipal Water District (the "district"), under the Political Reform Act.¹

Specifically, you indicated that the district has an overall capital improvement plan to upgrade its supply and distribution of water. As part of the plan, the district intends to acquire a portion of Mr. Allen's real property for a water reservoir tank site. The district will comply with California condemnation law in making this purchase.

As I indicated on the telephone, Mr. Allen may participate in any district decision concerning the capital improvement plan that does not relate to or have an effect upon the value of his real property. As part of this, I indicated that Mr. Allen could not, therefore, participate in district decisions concerning the district's acquisition of his property or the district's placement of a water reservoir tank upon the property. (See Sections 87100, and 87103(b), and Regulation 18702.1, copy enclosed.) This does not preclude Mr. Allen from appearing on his own behalf before the district board to represent his own interests. (Regulation 18700(d)(2), copy enclosed.) It also does not preclude him from providing information or negotiating with district officials to the minimum extent necessary for the district to complete the purchase of the property. However, in providing information or

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

negotiating with district officials, Mr. Allen must not act in his official capacity (Regulation 18700(c), copy enclosed) or use his official position to influence district decisions on this issue (Regulation 18700.1(b), copy enclosed).

Finally, you informed me that placement of the water reservoir tank on property acquired from Mr. Allen may involve placing underground pipes on other property owned by Mr. Allen that will not be acquired by the district. You asked if Mr. Allen could participate in district decisions concerning this matter. You also indicated that you did not think the placement of these pipes would have any financial impact upon Mr. Allen's property.

By installation of these pipes, it appears that the district is creating an easement for itself on Mr. Allen's property. Regulation 18702.1(a)(3)(A) (copy enclosed) generally prohibits an official from participating in decisions concerning the sale, lease or "a similar decision" involving his or her property. Since an easement confers a right on its holder to some profit, benefit, dominion or lawful use out of or over the land of another (Guerra v. Packard (1965) 236 Cal.App.2d 272), it is similar in many respects to a sale or lease of real property. Thus, Regulation 18702.1 would apply to the placement of these pipes across Mr. Allen's property. Subdivision (c)(2) of Regulation 18702.1 permits Mr. Allen to participate in decisions concerning the easement if, in fact, the easement does not have a financial effect on Mr. Allen's property. However, if there is a reasonable possibility of a financial effect, Mr. Allen will be prohibited from participating in decisions concerning placement and installation of the pipes on his property.

Should you have additional questions, please contact me at (916) 322-5901.

Very truly yours,

Kathryn E. Donoyan



By: Scott Hallabrin
Counsel, Legal Division

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Enclosures



RAMONA MUNICIPAL WATER DISTRICT

105 West Earham Street
Post Office Box 849
Ramona, California 92065

Telephone:
(619) 789-1330

December 11, 1989

Scott Hallabrin
Staff Attorney
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95814

RE: Acquisition of Allen Land for Water Reservoir

Dear Mr. Hallabrin:

This confirms our telephone conversation of December 11, 1989. As explained to you, Director Jack Allen, a member of our Ramona Municipal Water District Board of Directors, is concerned with regard to the extent of his conflict of interest arising out of acquisition by the District of his land for a water reservoir tank site.

The construction of the tank will be a surface installation with underground inlet and outlet pipes to the tank. The District will comply with the California State Condemnation Laws in the acquisition of the tank site. The tank is a portion of the District overall capital improvement plan to upgrade the supply and distribution of water in the District.

In accordance with our conversation, it was agreed that Mr. Allen could participate in the discussion and deliberation regarding the capital improvement plan except for where it relates to an interest in the subject and his adjoining property.

It was agreed that once the District acquired the site and it is determined that the underground pipes connected to the tank do not affect the value of the remaining Allen land, then Mr. Allen could fully participate in any discussion and deliberation of the capital improvement plan.

DEC 13 1989
F.P.P.C.

Mr. Allen has been advised that he may not participate in the decision of the Board of Directors to acquire the Allen property or to participate in the award of a contract for the construction of the reservoir.

Would you please, at your earliest convenience, review this matter and confirm our decision or modify it as necessary.

Sincerely,

(mb)
William Sabourin

William Sabourin, Esq

WS/mb